

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Venable Mitchell,
a/k/a Venable Deon Mitchell,

Plaintiff,

v.

Dr. Boykin, *Dentist*;
Mrs. Garcia, *Dental Asst*,

Defendants.

C/A No. 8:23-cv-4771-JFA-BM

ORDER

Venable Mitchell ("Plaintiff"), proceeding pro se, brings this civil action alleging violations of his constitutional rights by defendants. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), the case was referred to the Magistrate Judge for pretrial proceedings.

After the defendants filed a motion to dismiss, the Magistrate Judge assigned to this action issued a corresponding order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the importance of the motion and of the need for him to file an adequate response. The order was mailed to Plaintiff but returned as undeliverable. Plaintiff failed to notify the court of any change in address and therefore failed to comply with this court's orders. (ECF No. 7). Thereafter, the Magistrate Judge entered an Order directing Plaintiff to show cause why this case should not be dismissed. (ECF No. 45). Plaintiff was warned that failure to respond would result in this action being recommended for dismissal for failure to prosecute. *Id.* at 2. Plaintiff failed to respond to the order.

Based on Plaintiff's failure to comply, which has left this court with no means of contacting him concerning this case, the Magistrate Judge assigned to this action¹ prepared a thorough Report and Recommendation ("Report"). (ECF No. 51). Within the Report, the Magistrate Judge opines this action is subject to dismissal pursuant to Federal Rule of Civil Procedure 41(b). *Id.* The Report sets forth, in detail, the relevant facts and standards of law on this matter, and this Court incorporates those facts and standards without a recitation.

Plaintiff was advised of his right to object to the Report, which was entered on the docket on April 12, 2024. *Id.* The Magistrate Judge required Plaintiff to file objections by April 26, 2024. *Id.* Plaintiff failed to file objections. Thus, this matter is ripe for review.

A district court is only required to conduct a *de novo* review of the specific portions of the Magistrate Judge's Report to which an objection is made. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b); *Carniewski v. W. Virginia Bd. of Prob. & Parole*, 974 F.2d 1330 (4th Cir. 1992). In the absence of specific objections to portions of the Magistrate's Report, this Court is not required to give an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

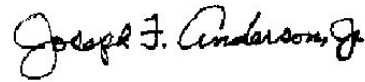
Here, Plaintiff has failed to raise any objections and therefore this Court is not required to give an explanation for adopting the recommendation. A review of the Report and prior orders indicates that the Magistrate Judge correctly concluded that Plaintiff's Complaint is subject to dismissal pursuant to Rule 41.

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.). The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976).

After carefully reviewing the applicable laws, the record in this case, and the Report, this Court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. Accordingly, this Court adopts the Magistrate Judge's Report and Recommendation and incorporates it herein by reference. (ECF No. 51). Consequently, this action is dismissed with prejudice for failure to prosecute and failure to comply with court orders. Moreover, Defendants' motion to dismiss (ECF No. 36) is denied as moot.

IT IS SO ORDERED.

June 5, 2024
Columbia, South Carolina

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.
United States District Judge